IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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C.W.P NO. 16093 OF 2006

Date of decision : November 09, 2006

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Rohit Khanna .....Petitioner

Vs.

C.B.S.E & others .....Respondents

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CORAM: HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S BHALLA

Present: Mr. Rajinder Goyal, Advocate for the petitioner(s).
Mr. Harsh Aggarwal, Advocate for respondents no. 1 & 2.
Mr. B.S Bedi, Advocate for respondent no.3.

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Viney Mittal, J. (Oral)

Written statements, filed on behalf of respondents no. 1 & 2 and 3, today in the Court, are taken on record.

Copies thereof have been supplied to the learned counsel for the petitioner.

The petitioner has approached this Court for quashing the order dated August 19, 2006 (Annexure P-3) whereby the request of the petitioner for permission for admission in Class 10th in Satyanand Public School, Gohana-respondent no.4 and seeking a transfer from Sainik School, Kunjpura-respondent no.3 has been rejected. Further direction has been sought for directing respondents no. 1 & 2 to grant permission to the petitioner for admission in Class 10th .

It appears from the record, that the petitioner had studied upto Class 9th in Sainik School, Kunjpura-respondent no.3. The petitioner obtained 39.4% marks in Class 9th. The said School respondent no.3 is affiliated with C.B.S.E. According to the petitioner, the bye-laws of C.B.S.E provided that a student who obtained 33% marks in 9th Class was deemed as having passed the said class. Consequently claiming that he had passed his 9th Class examination from Sainik School, Kunjpura, the petitioner sought transfer from the said school by seeking admission in Satyanand Public School, Gohana-respondent no.4. The said request made by the petitioner has been rejected by C.B.S.E vide impugned order Annexure P-3.

In the written statement filed by CBSE, it has been maintained by it that no pass percentage was provided by C.B.S.E for passing Class 9th, but it was provided that a student was to clear the examination as per the bye-laws/regulations of the concerned institution. The C.B.S.E has maintained that the pass percentage provided for passing Sainik School, Kunjpura is a minimum of 40%. Although, it is conceded that the pass percentage provided by Satyanand Public School, Gohana-respondent no.4 is 33%. In these circumstances, the claim of the petitioner has been contested and it has been maintained that the petitioner having not passed 9th Class examination, as per the requirements of School-respondent no.3, was not entitled to seek transfer.

We have heard the learned counsel for the parties and have also gone through the record of the case.

It is not in dispute that both the Schools i.e respondent no.3 and respondent no.4 are affiliated with C.B.S.E. It is also not in dispute that the petitioner had obtained 39.4% marks in his 9th Class when he had appeared for examination conducted by the School-respondent no.3. Although Sainik School has fixed higher percentage of marks i.e 40% marks for declaring a student pass in the 9th Class, but, the pass percentage required for passing 9th Class is fixed at 33% by Satyanad Public School, Gohana-respondent no.4. It is in these circumstances that the petitioner claims that, as per requirements of respondent no.4, he shall be deemed to have passed the examination. In this regard, the petitioner has also relied upon the certificate of transfer issued by Sainik School, Kunjpura-

respondent no.3 wherein it has been mentioned that the petitioner is deemed to have passed the examination as per the CBSE bye-laws, but the aforesaid fact is disputed by the C.B.S.E, when it has been reiterated that the petitioner could not be taken to have passed 9th Class examination as per the requirements of Sainik School, Kunjpura.

Keeping in view the peculiar facts and circumstances and also the fact that both the institutions are affiliated with C.B.S.E, we deem it appropriate that in these circumstances the claim of the petitioner be reconsidered by the Chairman of C.B.S.E. While reconsidering the claim of the petitioner, the fact that petitioner is now seeking to join Satyanand Public School, Gohana-respondent no.4, where pass percentage for 9th class is fixed at 33% shall also be taken into consideration by the Chairman. It shall also be appreciated if the fact that the petitioner is merely a minor and as such has a long way to go in life may be also be kept in view.

Thereafter, the request of the petitioner seeking transfer from one institute to another shall also be sympathetically considered.

Copy of the order be given dasti on payment of the usual charges.

(VINEY MITTAL)
JUDGE

November 09, 2006
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(H.S BHALLA)
JUDGE